

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
Charleston Division**

DEREK CLEMENTS, <i>et al.</i> ,)	
)	
Plaintiffs)	
)	
v.)	Civil Action No. 2:22-cv-02069-RMG
)	
LLOYD J. AUSTIN, III,)	
)	
Defendant.)	
_____)	

**FIFTH SUPPLEMENTAL FILING IN SUPPORT OF PLAINTIFFS’ MOTION FOR A
PRELIMINARY INJUNCTION**

Plaintiffs, by and through counsel, respectfully submit this Fifth Supplemental Filing in Support of Plaintiffs’ Motion for a Preliminary Injunction.

Plaintiffs filed their Reply in Support of Plaintiffs’ Motion for a Preliminary Injunction on August 31, 2022. Plaintiffs’ Counsel then supplemented this filing on four subsequent occasions, as Plaintiffs’ Counsel were subsequently made aware of critically important additional documentation. For the same reasons, Plaintiffs again submit the above-captioned filing to update the Court with yet another critical material development.

Plaintiffs respectfully present the Court with a December 28, 2022, letter from Congressman Mark E. Green, detailing the need to reinstate seven U.S. Coast Guard Academy

Cadets, including the five cadets named as Plaintiffs in this lawsuit, removed from service for refusing to comply with the mandate (Exhibit 1).¹

In addition, Plaintiffs have been made aware of the recent implementation of ALCOAST 012/23, a January 11, 2023 U.S. Coast Guard memorandum directing immediate rescission of the COVID-19 vaccine mandate.² It is also Plaintiffs' understanding that no decision has been reached yet regarding the Coast Guard's handling of reinstatement for already separated service members.

In light of this recent turn of events and pursuant to Plaintiffs' outstanding Motion for a Preliminary Injunction, Plaintiffs submit these additional documents for the Court's awareness and consideration, and respectfully ask this honorable Court to grant restorative preliminary injunctive relief to said affected Plaintiffs and order their reinstatement and/or commission into their respective branches.

¹ Since sending this letter to Admiral Linda Fagan, Representative Green was appointed Chairman of the House Committee on Homeland Security on January 9, 2023, thereby placing him in a critical oversight position with regard to Department of Homeland Security and the U.S. Coast Guard. *See* Press Release, Rep. Green Selected Chairman of House Homeland Security Committee (Jan. 9, 2023), <https://markgreen.house.gov/2023/1/rep-green-selected-chairman-of-house-homeland-security-committee>.

² The vaccine-rescinding ALCOAST (the Coast Guard's official designation for service-wide orders) has not been made available to the public and accordingly, Plaintiffs are aware of its existence and general contents only. As such, Plaintiffs can only direct the court to the Coast Guard's website for accessing various ALCOASTs. *See* ALCOAST Messages, U.S. Coast Guard, <https://www.dcms.uscg.mil/General-Messages/ALCOAST/> (last visited Jan. 12, 2023). The website does provide the designation and dates for ALCOASTs even when "internet release is not authorized." Internal Coast Guard members have confirmed to Plaintiffs that the release date of the above-mentioned ALCOAST as being January 11, 2023. The only ALCOAST dated January 11, 2023, is ALCOAST 012/23. Thus, without being able to confirm, Plaintiffs tentatively identify ALCOAST 012/23 as ordering the COVID-19 vaccine mandate rescission.

Respectfully submitted,

/s/ Michael T. Rose

Michael T. Rose (S.C. Bar No. 0004910)
Mike Rose Law Firm, PC
409 Central Ave.
Summerville, SC 29483
Telephone: (843) 871-1821
mike@mikeroselawfirm.com
Local Counsel

/s/ Carol A. Thompson

Carol A. Thompson
Federal Practice Group
1750 K Street N.W., Suite 900
Washington, D.C. 20006
Telephone: (202) 862-4360
Facsimile: (888) 899-6053
cthompson@fedpractice.com
Admitted via Pro Hac Vice

/s/ John J. Michels, Jr.

John J. Michels, Jr.
Federal Practice Group
1750 K Street N.W., Suite 900
Washington, D.C. 20006
Telephone: (202) 862-4360
Facsimile: (888) 899-6053
lmichels@fedpractice.com
Admitted via Pro Hac Vice

Counsel for Plaintiffs